

12.715 PROPERTY AND EVIDENCE: CONFISCATION, ACCOUNTABILITY, PROCESSING, STORAGE AND RELEASE

Reference:

Procedure 12.265 - Wrecker and Towing
 Procedure 12.350 - Automated Fingerprint Identification System (AFIS)
 Procedure 12.400 - Offense Reporting, Miscellaneous Reporting
 Procedure 12.403 - Victim of Crime Notification
 Procedure 12.555 - Arrest/Citation: Processing of Adult Misdemeanor and Felony Offenders
 Procedure 12.615 - Deceased Persons/Prisoners
 Procedure 12.710 - Unit Property Book
 Procedure 12.720 - Evidence: Submitting for Physical Analysis
 Procedure 12.725 - Blood Drying Facility: Processing of Evidence Exposed to Bloodborne Pathogens
 Procedure 12.735 - Federal and State Forfeitures

Definitions:

Property - any material object of value, however slight, tangible or intangible to which an owner has a legal right.

- Property marked as “found” or “personal” is returnable to anyone with proof of ownership. No disposition order will be sent to the responsible officer and the property could be disposed of in 90 days if not claimed.
- Property marked as “court” is any property held as evidence or property that has the potential to be evidence. A disposition order will be sent to the responsible officer to determine the disposition.
- Property held as “confiscated” will be disposed of after one year unless Court Property Unit is otherwise advised. A disposition order will not be sent to the responsible officer. Do not submit evidence or potential evidence as confiscated.

Evidence - the documentary or oral statements and the material objects admissible as testimony in a court of law.

Purpose:

Provide for the security, care, custody and control of seized, recovered, and evidentiary property as well as abandoned, lost or found property.

Eliminate questionable confiscation and reduce complaints of illegal search and seizure.

Establish department procedure regarding firearms coming into police possession.

Policy:

Police personnel will exert every effort to detect, arrest, and prosecute violators. Property used in an unlawful manner will be seized and held as evidence in connection with the arrest.

Police personnel will not confiscate lawfully possessed property from another person. An exception will be made if, in the judgment of a supervisor, the confiscation is deemed necessary for the safety or welfare of the public or individuals involved. Items falling into this category are guns, knives, other dangerous weapons, explosives, poisons, etc.

All recovered firearms, ammunition, bullets and casings will be treated as evidence and the history of how they came to be recovered will be investigated.

Information:

Police Department personnel are responsible for the inventory and processing of all property that comes into their custody before terminating their tour of duty. Inventory of property is necessary through the entire transaction process unless the property is in a Police Department evidence envelope, bag, or box and is properly sealed with evidence tape.

Personnel at each district are trained to access the Electronic Trace Submission System database of firearms coming into police custody maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives. During normal working hours, Special Investigations Squad (SIS) personnel are available, as needed, to access the database. After hours, a supervisor may contact the Major Offenders Unit (MOU) commander or SIS supervisor via the Criminal Investigation Section (CIS) desk.

Procedure:**A. Confiscated Property**

1. Report confiscated property, except firearms, on a Form 301, Incident Report.
 - a. Provide a complete account of the circumstances surrounding the confiscation.
 - b. A Form 330, Property Receipt, is to be issued to the subject from whom the property was confiscated.

B. Non-personal Property Found on Prisoners

1. When property other than personal property found on prisoners or property submitted for analysis comes into police custody or the custody of Cincinnati Private Police officers (items to be processed at the district of detail assignment), officers will prepare the property for the Court Property Unit.

- a. The officer will complete a Form 330, Property Receipt.
 - 1) All Forms 330 pertaining to one arrest or case will have the same officer listed as the primary officer.
 - 2) A copy of the Form 330 is to be issued to the subject from whom the non-personal property was confiscated.
- b. Enter the property in the district/section/unit property book.
 - 1) Personnel will record all information required by Procedure 12.710, Unit Property Book.
- c. Put the property in the property locker, along with the property locker key.
- d. The master key will be kept in a secured place within the district/section/unit and will only be accessed by a supervisor. The master key is required to reopen the lockers once they are locked.
 - 1) Officers requiring access to a locked property locker will notify a supervisor.
 - 2) The supervisor will accompany the requesting officer to the locker, open the locker, and witness any action taken regarding the property.
 - 3) The supervisor will not, under any circumstances, give the master key to the requesting officer.
 - 4) If a supervisor has reason to open a secured property locker, it must be done in the presence of a second officer or supervisor.
2. A unit/shift supervisor will review all Forms 330 for accuracy and place his name and badge number in the block provided.
 - a. Send all copies of the Form 330 with the property to the Court Property Unit by 0830 hours, Monday through Friday.
3. Court Property Unit personnel will inspect the property for correct packaging and completeness of tags and receipts.
 - a. Property incorrectly prepared and tagged will not be accepted.
 - b. Property such as drugs, firearms, or money incorrectly prepared and/or tagged will be retained at Court Property Unit.
 - c. A copy of the related Form 330, with a notation of the error(s), will be given to the delivering officer. The district property officer will deliver the Form 330 containing the error notice to the Administrative Assistant or a district/section/unit supervisor by 1000 hours that day.

- d. A supervisor from the affected district/section/unit will respond to Court Property Unit within three days to correct the error.
 - e. After the correction is made the Court Property Unit will process the property in the appropriate manner.
 - f. Date and initial the Form 330, assign the location number, and put the property number on each copy.
 - 1) White copy of the Form 330 is filed at Court Property Unit.
 - 2) Yellow copy of the Form 330 is given to the delivering officer for filing in the unit.
 - a) A supervisor designated by the district/section/unit commander will be sure the location and property numbers are entered in the district/section/unit property book.
 - g. Enter all submitted property into the Automated Control of Evidence (ACE System) computer database. A bar code identifier is generated and assigned to each individual item.
4. To avoid recalling personnel after normal business hours, submit property in the following manner:
- a. Property valued from \$.01 to \$999.99 will be held at the district/section/unit having a property room. Property valued from \$1,000.00 to \$9,999.99 will be held at CIS (see section 4.b.). Property valued at \$10,000.00 and above requires the recall of Court Property Unit (CPU) personnel.
 - b. The safe is located in the lobby of the Criminal Investigation Section (CIS), 824 Broadway, 5th floor. The safe has a night deposit drum. If valuable property does not fit in the CIS safe, CPU personnel will be recalled.
 - c. Hold all other items in the district/section/unit property facility for submission to the Court Property Unit on the next business day.
 - 1) General Vice Enforcement Unit and Street Corner Unit may retain up to \$5,000 U.S. currency in their safes.
 - 2) General Vice Enforcement Unit and Street Corner Unit may retain drugs in their safes if the quantity can be placed there in its entirety.
 - a) Drug evidence too bulky for the safe will be taken directly to the Court Property Unit in accordance with established procedures.
 - d. Recall Court Property Unit personnel, with approval of a captain or above, if the property is valued at more than the above value and/or cannot be stored as indicated above.

- e. Officers must record property in the district/section/unit property book before delivery to CIS.
- f. Evidence, including packaging, must be smaller than 14" x 5" x 4".
- g. Evidence must be properly packaged and sealed with evidence tape. The officer sealing the package must date and initial the seal.
- h. Attach completed property receipts and tags.
- i. Officers will report to the CIS desk officer who will unlock the night deposit bin.
- j. Officers must sign the property log maintained by the CIS desk officer.
- k. Court Property Unit personnel will pick up items from the safe at the beginning of each business day. Two members of the Court Property Unit will check and audit the items. Discrepancies will be brought to the attention of the district/section/unit supervisor and the Evidence/Property Management Section Commander.

C. Personal Property Found on Prisoners

- 1. Property that is found on prisoners and not needed for court will accompany the prisoner to the detention facility.

D. Property Contained in Towed or Moved Vehicles

- 1. All property contained in vehicles will be processed as outlined in Procedure 12.265, Wrecker and Towing.

E. Hamilton County Coroner's Cases

- 1. Per Procedure 12.615, Deceased Persons/Prisoners, personal property such as clothes, billfold, money, jewelry, medicine bottles, etc., will accompany bodies to the Hamilton County Coroner's Office and be retained there. The morgue attendant will issue a receipt to the delivering officer for inclusion in the unit's file.
- 2. Process other property not accompanying the body to the Coroner's Office through the appropriate district/section/unit property book. Mark the Form 330 "Hold for Coroner".
 - a. Deliver property processed through units other than CIS to the Court Property Unit.
 - b. Property requiring special handling by Homicide Unit personnel will be processed by the Criminalistics Squad, as permitted in Procedure 12.615, and may be taken directly to the Coroner's Office or processed at CIS pending delivery.

- 1) The officer delivering evidence to the Coroner's Office will complete a Form 330, accompanied by a Property Location Card signed by the officer.
 - 2) Process all copies of Forms 330 through the Court Property Unit by the next business day.
 - c. The Homicide Unit is responsible for delivery of all property held for the Coroner's Office. The Court Property Unit is responsible for the return of all property released from the Coroner's Office.
3. The Coroner's Office will return the following property:
- a. Homicide cases - All property determined to be evidence, including the fatal weapon.
 - 1) Motor vehicles will be evaluated individually.
 - 2) The decision to retain or return is made by the Coroner's Office.
 - b. Questionable deaths later determined not to be a homicide - Property related to the death, but not the property of the deceased.
 - c. Suicide cases – Property related to the suicide.
- F. Air-Dried Property
1. Contact a Homicide Unit supervisor for further instructions as directed in Procedure 12.725, Blood Drying Facility: Processing of Evidence Exposed to Bloodborne Pathogens. If a Homicide Unit supervisor is not available, contact a Homicide Unit investigator or CIS supervisor.
- G. Release of Property at the Recovering Unit
1. Property of the victim will be returned pursuant to Procedure 12.403, Victim of Crime Notification.
 2. The claimant will sign a Form 330 for any property released by the recovering unit.
 - a. The recovering unit will file all three copies of the Form 330.
- H. Release of Property at the Court Property Unit
1. CPU personnel will release property according to their Standard Operating Procedure (SOP). Personnel will be sure they release property to the rightful owner and obtain a signature on the Automated Control of Evidence (ACE) System Property Withdrawal Receipt.
 - a. A police officer or private police officer may not check out property to deliver it to its rightful owner.

2. A Department employee or private police officer removing property from the Court Property Unit for court, identification purposes, test firing, etc., must complete and sign an ACE System Property Withdrawal Receipt provided by the clerk. The Department employee or private police officer is responsible for the return of the property to the Court Property Unit. The clerk will verify the identity of the individuals by checking their police identification card, through personal knowledge, or by having their identity established by other personnel known to the clerk.
 3. Property is normally returned to the CPU clerk on the same day it is checked out. It is the responsibility of the person returning the property to ensure the ACE System Property Withdrawal Receipt is appropriately marked indicating the return of the property.
 - a. Mark property tags and envelopes when returning property to indicate whether there is further need for its use.
 4. When unable to return property on the day it is checked out, the officer must notify the clerk of the circumstances on the next business day.
 - a. Officers unable to return property on the same day will return it to their unit's property room and log it into the unit property book.
 - b. Private police officers unable to return property on the same day will return it to District One.
 5. The clerk will review the file for property not returned each day. The clerk will initiate an inquiry into the status of all property not returned within two days.
 6. If the court directs the release of property, direct the person to retrieve the property at the Court Property Unit. The arresting officer will not release the property directly to any person in the courtroom.
 - a. Police officers will not request the court to release any property for their personal use.
 7. If the court retains custody of the property, the officer will obtain the prosecutor's signature, printed name, and date in the "Turned Over to Court" section of the ACE System Property Withdrawal Receipt.
 - a. The officer will return the completed receipt to the Court Property Unit immediately following the court appearance.
- I. Property Requiring Special Processing
1. Money or jewelry in excess of \$100
 - a. A supervisor in the presence of the recovering officer must verify the amount of money or jewelry.
 - 1) Money coming into Police Department custody will be processed through the Court Property Unit (CPU).

- 2) Officers submitting money will determine if the money is required as actual evidence or if the bills are not particular to the case (e.g., marked money, exploded dye pack monies, etc.).
 - a) The Form 330 and property package will be marked "Hold At Court Property Unit" in the case of money being held at the Court Property Unit.
 - b) The Form 330 and property package will be marked "Deposit Into Account" in the case of money being deposited.
 - b. A supervisor will verify the contents of the property envelope, placing his signature in the space provided on the envelope.
 - c. Photograph all jewelry that comes into Department possession. The recovering officer will place the photograph inside the property envelope.
 - d. A supervisor will ensure the property is properly marked and entered in the property book. The supervisor will sign the property receipt.
 - e. The property will be placed in the property locker, along with the property locker key.
 - f. When an officer seizes large amounts of change (over \$200.00) it will be taken to the City Treasurer's Office for an accurate count prior to submission to the Court Property Unit.
 - 1) After normal business hours the property will be placed in the district/section/unit property locker.
 - 2) A notation will be made in the district/section/unit blotter advising first relief to transport the change to the City Treasurer's Office.
2. Controlled substances
- a. A controlled substance is any drug, compound, mixture, preparation, or substance included in Schedule I, II, III, IV, or V. Any drug requiring a prescription for dispensation is also a controlled substance.
 - b. A supervisor will verify the weight of the drug or substance, the weight recorded on the Form 330, and the weight listed on the property envelope. The supervisor will conduct the verification in the presence of the recovering officer.

- c. A supervisor will ensure the property is properly marked and entered in the property book. The supervisor will sign the property receipt.
 - d. The property will then be placed in the property locker, along with the property locker key.
- 3. The presence of a supervisor is required when any property listed in Sections I.1. and I.2. is placed in or removed from a unit property room. The supervisor will remain until the transaction is completed.
- 4. Potentially hazardous materials
 - a. Potentially hazardous material is any property possibly contaminated by blood or other body fluids.
 - b. Place biohazard warning labels on all property possibly contaminated by blood or other body fluids. Ensure the label is plainly visible to other personnel handling the property.
 - c. Use a syringe tube to package any needle coming under police control. Place a biohazard-warning label on the container.
 - 1) Attach a property tag to the syringe tube. Do not place the tube in a property envelope.
 - d. The property will then be placed in the property locker, along with the property locker key.
- J. Perishable Property Requiring Refrigeration
 - 1. Store in the refrigerator located at the Court Property Unit.
 - a. When the Court Property Unit is closed, use the CIS refrigerator.
 - 1) Complete a Form 330 and mark "Held at CIS".
 - 2) Mark the unit property book at the originating unit "Held at CIS".
 - 3) Deliver the property and all copies of the Form 330 to CIS desk personnel.
 - 4) CIS desk personnel will receive the property and make an entry in the CIS refrigerator property book.
 - 5) CIS desk personnel will sign and date the reverse side of all copies of the Form 330.
 - b. Court Property Unit personnel will pick up the property from CIS each weekday morning and transfer it to the refrigerator in the Court Property Unit. The transferring officer will note the transaction by making an entry in the CIS refrigerator property book.

- 1) The Court Property Unit will assign a property number on the Form 330. The delivering officer will take the yellow copy of the Form 330 to his unit of assignment.
- 2) The Court Property Unit retains the white copy for their files.

K. Storing Gasoline Powered Vehicles

1. Take mopeds, power lawn mowers, or other gasoline powered objects to the Impound Unit for storage.
 - a. Report mopeds on a Form 301, Incident Report.
 - b. Report power lawn mowers or any items other than vehicles using gasoline on a Form 330 along with the white Form 64, Property Tag, or the yellow Form 327, Court Tag.

L. Storing of Flammable Liquids, Fireworks, etc.

1. Flammable liquids such as gasoline, kerosene, fuel oil, or similar substances capable of ignition, burning with extreme rapidity, capable of creating an explosion, or suspected of having such characteristics are kept in a locked outdoor storage facility under the control of the Impound Unit.
2. Summon a supervisor if there is any doubt about the safe transportation of the above substances to the Impound Unit. If necessary, call the Fire Department to assist in the safe transportation of volatile substances.
 - a. After normal business hours, contact a captain or above for authorization to recall Impound Unit personnel.
3. Flammable liquid requiring analysis
 - a. Obtain a suitable specimen container from the Impound Unit. Transfer liquid to the container, properly seal, and identify with the recovering officer's name and badge number.
 - b. The specimen, along with the Evidence Submission Sheet completed by the recovering officer, will be picked up from the Impound Unit by Court Property Unit personnel. CPU personnel will have the specimen analyzed according to Procedure 12.720, Evidence: Submitting for Physical Analysis. After analysis, return the specimen container to the Impound Unit storage facility.
4. Form 330, Property Receipt
 - a. The Impound Unit will forward the Form 330 to the Court Property Unit if no analysis is requested.

- b. Upon completion of the processing, CPU personnel will distribute the copies as follows:
 - 1) Yellow copy to the commander of the district/section/unit.
 - 2) White copy retained at the Court Property Unit.
- 5. Request the Fire Department respond whenever high-powered explosives are encountered.

M. Identifiable Property

- 1. The recovering officer will initiate a computer check on all identifiable property bearing a serial or model number, manufacturer's name, etc.
 - a. If the property is recovered lost property and can be identified, it will be processed as outlined in procedure 12.400, Offense Reporting, Miscellaneous Reporting.
- 2. The recovering officer will indicate a computer check and necessary follow-up has been completed by listing the verifying officer's name and badge number in the lower right-hand portion of the Form 330.
- 3. Property recovered as a result of a computer query
 - a. Cincinnati Police Department entries - Note the facts on a Form 311, Incident Closure Report, and route to Records Section for cancellation of the computer entry.
 - b. Other agencies' entries - Notify the CIN-1 operator at Police Communications Section (PCS) and provide the recovery data. The CIN-1 operator will teletype the information to the originating agency for their removal from the computer file.
- 4. If the property is not identifiable, note "NA" in the lower right-hand portion of the Form 330, along with the officer's name and badge number.

N. Form 330, Property Receipt

- 1. When forwarding articles such as guns, TVs, CB radios, bicycles, lawn mowers, watches, or any other items which have an identifiable serial number to the Court Property Unit, the forwarding unit should include the following information on the Form 330:
 - a. Type of item.
 - b. Brand name.
 - c. Serial number.
 - d. Model number.

- e. Color.
- f. Characteristics which would aid in identification of the item.
- g. Name and badge number of processing officer checking computer files.

O. Processing of Firearms

1. Recovery of Firearms

- a. Photograph each firearm prior to moving it if possible (see Procedure 12.615 Section D.3.a.).
- b. Sketch the location of the firearm and all persons associated with it. If possible, measure the distances of the firearm to the person.
- c. Make the firearm safe without obliterating fingerprints or other evidence when possible.
- d. If a firearm cannot be made safe without destroying evidence, a supervisor will determine if, how and where the firearm will be transported.

2. Report all firearms coming into police control on a Form 313, Firearm Report.

- a. Fill out all blocks completely except "Barrel Length". CPU personnel will complete this block.
- b. List the complete number found on the frame, including prefix and suffix letters.
- c. If a firearm does not have a serial number, note this in the "Serial Number" block.
- d. In all felony arrests involving the confiscation of a firearm in connection with the arrest (whether or not a weapons offense has been charged) the submitting officer will print "**ATTENTION RIP CASE**" in bold lettering in the "Detail/Remarks" section of the Form 313.

3. Query all firearms coming under police control through the Regional Crime Information Center (RCIC) and the National Crime Information Center (NCIC).

- a. The officer having original control of the firearm will run the query.
- b. If the firearm is stolen, the officer running the query must ensure that the originating agency is notified.

- c. The Court Property Unit will not accept firearms unless they have been queried through the computer.
- 4. Attach a Form 64, Property Tag, or Form 327, Property Tag, a Form 330, Property Receipt, and Form 313, Firearm Report, to all firearms coming into police control.
- 5. Place all firearms in a gun envelope.
 - a. If a firearm will not fit in a gun envelope, attach a Form 64 or 327, Form 330 and Form 313, along with the computer query, to the firearm.
- 6. Place the computer printout and Form 313 inside the gun envelope. Ensure the following information is on the printout:
 - a. The words "To Court Property Unit".
 - b. Date and time the printout was forwarded to the Court Property Unit.
 - c. The originating agency terminal identifier (example: DIST1, PARK, CVCS, etc.).
- 7. If body fluids are on the firearm, attach all paperwork to the outside of the gun envelope.
 - a. Place a biohazard label on the outside of the gun envelope or cardboard firearms property box.
- 8. Routing of the Form 313
 - a. File the original and a copy of the Form 313 at the reporting unit.
 - b. Attach two copies to the firearm.
 - 1) Court Property Unit will file one copy and forward the other copy to the Bureau of Alcohol, Tobacco, Firearms and Explosives.
- 9. Test firing weapons
 - a. The primary officer is responsible for test firing the weapon as soon as possible.
 - b. If no weapons charges are filed, or the firearm is found property, no test firing is required by the primary officer.
 - 1) CIS officers will test fire these weapons for entry into the National Integrated Ballistic Information Network (NIBIN).

- c. In all situations, officers who believe it is unsafe to test fire the weapon will transport the firearm to CIS. The weapon will be logged into the CIS property book and stored in a property locker.
 - 1) The property will be marked, "Unsafe weapon – hold for Special Investigations Squad (SIS)".
 - 2) If the SIS investigator believes the weapon is unsafe, they will transport the weapon to the Target Range for inspection by an armorer. If the weapon is determined to be safe, the SIS investigator will test fire the weapon, or witness the test.

10. Packaging of Magazines, Ammunition, Bullets, and Casings

- a. Package magazines, ammunition, bullets, and casings separately in a cartridge envelope and place them in a property envelope.
- b. When a firearm is not found at the scene or not involved in the recovery, package magazines, ammunition, bullets, and casings in standard property envelopes.

P. Return of Confiscated Firearm(s)

- 1. If an officer confiscates a firearm from a citizen, the citizen may get the firearm back if:
 - a. There is a court order from a judge, or
 - b. The Police Chief receives a letter from the citizen requesting the return and the Police Chief approves the request.
- 2. When a confiscated firearm is being returned to its owner, the Police Department will, before returning the firearm, require the owner to prove ownership or the right to possession of the firearm.
 - a. An owner may demonstrate ownership or the right to the possession of a firearm using one of the following:
 - 1) A bill of sale with the description, serial number, and owner's name.
 - 2) A police query showing the firearm is registered to the owner.
 - 3) Possession of a court order ordering the return of the firearm to the owner.
 - 4) Presenting his homeowner's insurance showing the firearm is listed and reported lost or stolen from the owner.

- 5) A dealer presenting an inventory with the firearm and serial number listed and that the firearm was reported stolen or missing from the owner's business.

Q. Safes, Bicycles, and Large Evidence

1. Take the property directly to the Court Property Unit during normal business hours.

R. Fraudulent Checks

1. Fraudulent checks are maintained in case jackets, in a secured location, by the assigned Financial Crimes Squad investigator or district investigator and are not delivered to the Court Property Unit.
2. Enter checks received into the Check Complaint Book maintained in the Financial Crimes Squad office. Entries will consist of the:
 - a. Complainant's name and address.
 - b. Suspect's name.
 - c. Charge.
 - d. Assigned investigator.
 - e. Amount of the check.
 - f. Date received.
3. Checks remain a part of the file and will not be disposed of after the court action.

S. Fraudulent Prescriptions

1. Fraudulent prescriptions are maintained in case jackets, in a secured location, by the assigned Street Corner Unit investigators and are not delivered to the Court Property Unit.
2. Provide pharmacies with a Form 328, Prescription Receipt Form, (pharmacy - top copy, case jacket - bottom copy) for prescriptions kept as evidence.
3. Prescriptions remain a part of the file and are not disposed of after the court action.

T. Status of Property Items

1. When property is being held as evidence, the Court Property Unit clerk will initiate a disposition order. The clerk will forward the orders to the responsible officer's unit commander.

2. The unit commander will ensure the responsible officer completes the disposition order and returns it to the Court Property Unit within 14 days.

U. Proceedings for the Forfeiture of Property

1. Officers will refer to procedure 12.735, Federal and State Forfeitures, when processing property believed to be subject to forfeiture.